

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 333 be recommitted to a Committee of One, its sponsor, with specific instructions to amend as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 4-4-11-16.7 IS ADDED TO THE INDIANA
- 4 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 5 [EFFECTIVE UPON PASSAGE]: **Sec. 16.7. (a) The following funds**
- 6 **shall be deposited in the business development loan fund**
- 7 **established under section 16.5 of this chapter:**
- 8 (1) **Proceeds of bonds sold to or loans made to the authority**
- 9 **by the board for depositories under IC 5-13-12-12.**
- 10 (2) **Any fees received by the authority in connection with the**
- 11 **making of loans and loan guaranties under this section.**
- 12 **Deposits made under this subsection are in addition to other**
- 13 **amounts deposited in the fund under section 16.5(a) of this chapter.**
- 14 (b) **In addition to its powers under section 16.5 of this chapter,**
- 15 **and subject to subsection (d), the authority may make a loan or**
- 16 **loan guaranty from the business development loan fund to a**
- 17 **business located in Indiana if the authority makes a written finding**
- 18 **that the loan or loan guaranty would accomplish the purposes of**
- 19 **this chapter by enabling the business to carry out an industrial**
- 20 **development project that will do any of the following:**
- 21 (1) **Improve the technological capacity or productivity of the**
- 22 **business.**
- 23 (2) **Enhance the protection of Indiana's environment.**
- 24 (3) **Permit the business to expand facilities, establish new**

facilities, or make site improvements or infrastructure improvements.

(c) In addition to its powers under section 16.5 of this chapter, and subject to subsection (d), the authority may make a loan or loan guaranty from the business development loan fund to a business located outside Indiana affecting a leading Indiana business, if:

(1) the authority makes a written finding that the loan or loan guaranty would accomplish the purposes of this chapter by enabling the business to carry out an industrial development project that will:

(A) improve the technological capacity or productivity of the leading Indiana business;

(B) enhance the protection of Indiana's environment;

(C) permit the leading Indiana business to expand facilities, establish new facilities, or make site or infrastructure improvements; or

(D) permit a leading Indiana business to preserve or retain jobs, prevent economic insecurity resulting from unemployment or environmental pollution, or otherwise preserve the health, safety, morals, and general welfare of the state or the area of the state where the leading Indiana business is headquartered; and

(2) the general assembly has provided for the making of the loan or loan guaranty by specifically authorizing the making of the loan or loan guaranty in the appropriation act and the loan or loan guarantee is approved by the budget agency after review by the budget committee.

(d) With respect to any loan or loan guaranty made under this section, a loan or loan guaranty agreement with the authority must contain the following terms:

(1) If a loan is made, a requirement that the loan proceeds be used for specified purposes consistent with and in furtherance of the purposes of the authority under this chapter, or if a loan guaranty is made, a requirement that the proceeds of the loan guaranteed be used for specified purposes consistent with and in furtherance of the purposes of the authority under this chapter.

(2) The term of the loan or loan guaranty, which must not be later than ten (10) years from the date of the loan or loan guaranty.

(3) If a loan is made, the repayment schedule for the loan.

(4) If a loan is made, the interest rate or rates of the loan, which may include variations in the rate, but that may not be less than the amount necessary to cover all costs and expenses of the authority in making the loan.

(5) Any other terms and provisions that the authority

requires, including, subject to subsection (h), collateral or security requirements for the loan or loan guaranty.

(e) Notwithstanding any other law, including IC 5-13-12, the authority may borrow money from the board for depositories from time to time, and issue its bonds as evidence of the loans, for the purposes of funding the business development loan fund and making loans to businesses under this section. Bonds sold to the board for depositories and loans received from the board for depositories shall be on the terms and subject to the provisions agreed to by the authority and the board for depositories in bond purchase agreements or loan agreements, which must include provisions stating that any bond issued by the authority or any loan received by the authority under this subsection shall not constitute a debt, liability, or obligation of the state, or a pledge or lending of credit of the faith and credit of the state, but shall be payable solely as provided in the bond purchase agreement or loan agreement, including the repayment proceeds of loans made by the authority from the business development loan fund. This subsection is all the authority the authority needs to issue bonds to, and receive loans from, the board for depositories, and to enter into bond purchase agreements and loan agreements. However, the authority may not issue bonds under this subsection unless the general assembly has provided for the issuance of the bonds by specifically authorizing the issuance of the bonds in the appropriation act, and the issuance of the bonds is approved by the budget agency after review by the budget committee.

(f) As used in this section, "leading Indiana business" means a business that:

- (1) is headquartered in a county having a population of more than sixty thousand (60,000) but less than sixty-four thousand (64,000);
- (2) is a Fortune 500 company, as of April 16, 2001, when ranked by measures of revenues, profits, assets, stockholders' equity, market value, profit and total return to investors;
- (3) pays wages at levels that are not less than two hundred percent (200%) of the county average wage, calculated by the Indiana department of commerce, paid in the county in which the business is headquartered; and
- (4) is a global business participating in international markets.

(g) As used in this section, "loan" includes any financing lease of personal property owned by the authority to a business described in this section.

(h) The authority must be collateralized or secured on the same basis as a lender providing commercial or other conventional financing for the industrial development project or a related project being undertaken in connection with the industrial development project, provided that, if in the authority's judgment

1 it is necessary or desirable to assure better commercial or
 2 conventional financing terms and thereby better assure the success
 3 of the industrial development project or related project, the
 4 authority is authorized to accept a junior and subordinate
 5 collateral or security position. However, the authority's collateral
 6 or security position must be senior and prior to the collateral or
 7 security interest of another state participating in the industrial
 8 development project or related project. As used in this section,
 9 "another state" includes any authority, board, commission, or
 10 instrumentality of the other state and a political subdivision or
 11 other governmental or quasi-governmental unit of the other state.
 12 This subsection does not apply if the authority owns personal
 13 property and leases it to a business described in this section, under
 14 subsection (g).

15 (i) The aggregate principal amount of bonds, loans, and loan
 16 guaranties the authority may make under this section is limited to
 17 thirty-five million dollars (\$35,000,000).

18 (j) In addition to its other powers under this section, the
 19 authority may make a loan guaranty as contemplated by this
 20 section jointly with the board for depositories and, in addition to
 21 using moneys in the business development loan fund, the authority
 22 may use not more than two million dollars (\$2,000,000) of moneys
 23 in the industrial development guaranty fund to fund the joint loan
 24 guaranty.

25 (k) In addition to its other powers under section 15 of this
 26 chapter, the authority may:

- 27 (1) sell and guarantee leases and loans; and
- 28 (2) accept gifts, grants, or loans from, and enter into contracts
 29 or other transactions with, the United States, any state, any
 30 federal or state agency, municipality, person, private
 31 organization, or other source, whether located within or
 32 outside the state.

33 (l) In addition to the authority's public purposes stated in
 34 sections 2 and 15 of this chapter, assistance provided under this
 35 section to an industrial development project located outside the
 36 state is consistent with the authority's public purposes so long as
 37 the project significantly affects jobs in the state or certain areas of
 38 the state. The authority may enter into any agreements or
 39 contracts as necessary to carry out this section, including but not
 40 limited to contracts with another state or with an instrumentality
 41 or political subdivision of that state.

42 (m) This section is in addition to, and not in limitation of, the
 43 authority's other powers heretofore or hereafter existing under
 44 this chapter to borrow money, issue bonds, make contracts,
 45 guaranties, and loans, including leases, and use moneys in the
 46 business development loan fund or guaranty fund. The issuance of
 47 bonds and the making of loans and loan guaranties under this

section need not comply with the requirements of any other state laws applicable thereto. No proceedings, notice, or approval shall be required for the issuance of any bonds or the making of any loans or loan guaranties or any instrument or the security therefor, except as specifically provided in this chapter. All industrial development projects for which funds are advanced, loaned, or otherwise provided by the authority under this section must be in compliance with any land use, zoning, subdivision, and other laws of this or any other state applicable to the land upon which the industrial development project is located or is to be constructed, but a failure to comply with these laws does not invalidate any bonds issued or loan or loan guaranty to finance an industrial development project.

(n) The general assembly finds that unique circumstances resulting from the globalization of the state's economy, the state's geographic location as the crossroads of America, and changes in federal environmental regulation create the need for the financing of leading Indiana businesses as provided in this section.

(o) This section expires July 1, 2002.

SECTION 2. IC 5-13-12-12 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) In addition to the authority given to the board for depositories in this chapter, and notwithstanding any other law, including sections 7 and 8 of this chapter, the board may buy bonds issued by the Indiana development finance authority or make loans to the Indiana development finance authority to fund the business development loan fund and to finance industrial development projects in accordance with IC 4-4-11. The term of bonds or loans shall not exceed ten (10) years. The board may not buy any bond or make any loan under this section unless:

(1) the authority finds and certifies to the board for depositories that the related industrial development project is in furtherance of the purposes of the Indiana development finance authority and complies with IC 4-4-11; and

(2) the general assembly has provided for the purchase of the bonds or the making of the loan by specifically authorizing the purchase of bonds or the making of the loan in the appropriation act and the purchase or loan is approved by the budget agency after review by the budget committee.

Bonds purchased by the board for depositories shall be on the terms and subject to the provisions agreed to by the board for depositories and the Indiana development finance authority in bond purchase agreements. Loans made by the board for depositories shall be on the terms and subject to the provisions agreed to by the board for depositories and the Indiana development finance authority in loan agreements. This section is all the authority the board for depositories needs to buy bonds

1 issued by the Indiana development finance authority, to make loans
2 to the Indiana development finance authority, and to enter into
3 bond purchase agreements and loan agreements.

4 (b) In addition to the authority given to the board for
5 depositories in this chapter, and notwithstanding any other law,
6 including sections 7 and 8 of this chapter, the board may guaranty
7 bonds issued by the Indiana development finance authority and
8 loans and loan guaranties made by the Indiana development
9 finance authority for industrial development projects in
10 accordance with IC 4-4-11. In addition, the board for depositories
11 may make a loan guaranty jointly with the Indiana development
12 finance authority as provided by IC 4-4-11-16.7. The term of loan
13 guaranties shall not exceed ten (10) years. The board may not make
14 any loan guaranty under this section unless:

15 (1) the authority finds and certifies to the board for
16 depositories that the related industrial development project is
17 in furtherance of the purposes of the Indiana development
18 finance authority and complies with IC 4-4-11; and

19 (2) the general assembly has provided for the guaranty by
20 specifically authorizing the guaranty in the appropriation act
21 and the guaranty is approved by the budget agency after
22 review by the budget committee.

23 Loan guaranties made by the board for depositories shall be on the
24 terms and subject to the provisions agreed to by the board for
25 depositories and the Indiana development finance authority in loan
26 guaranty agreements. This section is all the authority the board for
27 depositories needs to make loan guaranties and to enter into
28 guaranty agreements.

29 (c) The principal amount of bonds, loans, and loan guaranties
30 the board for depositories may buy or make under this section is
31 limited to thirty-five million dollars (\$35,000,000). A bond
32 purchase agreement, a loan agreement, or a loan guaranty
33 agreement made under this section does not constitute a debt,
34 liability, or obligation of the state, or a pledge or lending of the
35 faith and credit of the state, but shall be paid or provided for in the
36 bond purchase agreement, loan agreement, or loan guaranty
37 agreement and from the public deposit insurance fund as a special
38 fund, and all such agreements shall contain therein a statement to
39 the effect that the agreements are not obligations of the state of
40 Indiana, or of any political subdivision thereof, but are payable
41 solely as provided for in the agreements and from the public
42 deposit insurance fund as a special fund.

43 (d) This section expires July 1, 2002."

44 Page 7, between lines 2 and 3, begin a new paragraph and insert:

45 "SECTION 8. [EFFECTIVE UPON PASSAGE] (a)
46 Notwithstanding the expiration of IC 4-4-11-16.7, as added by this
47 act, on July 1, 2002, any bonds issued and any loans or loan

1 **guaranties made by the Indiana development finance authority**
2 **under that section before July 1, 2002, remain valid and binding**
3 **obligations of the Indiana development finance authority after**
4 **June 30, 2002, as if that section had not expired.**

5 **(b) Notwithstanding the expiration of IC 5-13-12-12, as added**
6 **by this act, on July 1, 2002, any loans or loan guaranties made by**
7 **the Indiana development finance authority under that section**
8 **before July 1, 2002, remain valid and binding obligations of the**
9 **Indiana development finance authority after June 30, 2002, as if**
10 **that section had not expired."**

11 Renumber all SECTIONS consecutively.

 (Reference is to ESB 333 as printed April 6, 2001.)

Representative Crawford



Adopted

Rejected

COMMITTEE REPORT

MR. SPEAKER:

Your Committee of One, to which was referred Engrossed Senate Bill 333, begs leave to report that said bill has been amended as directed.

Representative Crawford